

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

UNITED STATES OF AMERICA, §
Plaintiff, §
§
v. §
§
3.17 ACRES OF LAND, MORE OR §
LESS, SITUATED IN STARR COUNTY, §
TEXAS; AND JUAN MONTALVO, §
ET AL., §
Defendants. §

CASE NO. 7:08-CV-177

UNOPPOSED MOTION TO CONTINUE STATUS CONFERENCE

Plaintiff, United States of America (hereafter “United States”) and Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez (hereafter “Defendants”) respectfully move for a continuance of the status conference set for February 16, 2021.¹ Defendants request this continuance in light of a January 20, 2021 Presidential Proclamation directing a 60-day period for the United States to develop “a plan for the redirection of funds concerning the southern border wall.”²

PROCEDURAL HISTORY

1. On July 27, 2020, the Court entered an Order³ granting the following: (1) Amended Joint Motion for Order Establishing Just Compensation for Tracts RGV-RGC-1079 and RGV-RGC-1079E, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court,⁴ (2) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing Funds

¹ Dkt. No. 160.

² Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>.

³ Dkt. No. 139.

⁴ Dkt. No. 113.

on Deposit in the Registry of the Court as to Tract RGV-RGC-1104,⁵ and (3) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court for Tract RGV-RGC-1081.⁶

2. On January 25, 2021, the Court entered an Order⁷ granting the: (1) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court for Tracts RGV-RGC-1080, RGV-RGC-1077 & RGV-RGC-1077E⁸ and (2) Joint Motion for Order Establishing Just Compensation, Granting Possession, and Distributing Funds on Deposit in the Registry of the Court for Tracts RGV-RGC-1082.⁹
3. The only tracts still at issue are Tracts RGV-RGC-1078 and 1078E,¹⁰ for which Defendants previously held title.¹¹
4. On December 9, 2020, the Court set a deadline for the United States of America to file a status report by February 5, 2021.¹²
5. Prior to the January 20, 2021 Presidential Proclamation, the parties were negotiating just compensation.¹³
6. On February 5, 2021, the United States filed a Joint Status Report¹⁴ stating that the parties had not yet reached an agreement on just compensation for Tracts RGV-RGC-1078 and 1078E.

RELIEF REQUESTED

7. In light of the January 20, 2021 Presidential Proclamation directing multiple federal agencies to formulate “a plan for the redirection of funds concerning the southern border wall” within

⁵ Dkt. No. 122.

⁶ Dkt. No. 133.

⁷ Dkt. No. 161.

⁸ Dkt. No. 157.

⁹ Dkt. No. 158.

¹⁰ Dkt. No. 161.

¹¹ Dkt. No. 160.

¹² *Id.*

¹³ Dkt. No. 162.

¹⁴ *Id.*

60 days,¹⁵ the parties respectfully request this Court issue at least a 45-day continuance for the status conference set for February 16, 2021.¹⁶ The continuance sought will not prejudice the parties and will preserve judicial and party resources as set out below.

8. This is a federal land condemnation action seeking to acquire property “to construct roads, fencing, vehicle barriers, security lighting, and/or related structures designed to help secure the United States/Mexico border within the State of Texas.”¹⁷
9. Although this case commenced against Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez in 2008,¹⁸ the current Second Amended Complaint was filed on January 9, 2020.¹⁹
10. On January 20, 2021, President Joseph R. Biden executed a Presidential Proclamation terminating the national emergency at the southern border of the United States and directing “a careful review of *all* resources appropriated or redirected to construct a southern border wall”²⁰ through the development of “a plan for the redirection of funds concerning the southern border wall.”²¹
11. The plan for the redirection of funds concerning the southern border wall is expected to be developed within 60 days from the date of the Proclamation.²²
12. All parties in this case have been served pursuant to Rules 4 and 71.1 of the Federal Rules of Civil Procedure.
13. There has been no construction on either of the two subject property tracts, described as Tracts RGV-RGC-1078 and RGV-RGC-1078E.²³

¹⁵ Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021) at Sec. 2.

¹⁶ Dkt. No. 160.

¹⁷ Dkt. No. 1.

¹⁸ *Id.*

¹⁹ Dkt. No. 115.

²⁰ Pres. Proc. No. 10142, 86 Fed. Reg. 7225 (Jan. 20, 2021)(emphasis added).

²¹ *Id.*

²² *Id.* at Sec. 2.

²³ Dkt. No. 162.

14. This Court has recently granted continuances in fee simple border wall condemnation cases based on the new circumstances presented by the Proclamation. *United States v. 6.584 Acres of Land, More or Less*, No. 7:20-CV-00244, Dkt. 55 (S.D. Tex. Feb. 2, 2021); *United States v. 0.501 Acres of Land, More or Less*, No. 7:20-CV-00066, Dkt. 35 (S.D. Tex. Feb. 2, 2021).
15. The plan for redirecting funding and repurposing contracts to be developed within 60 days of the Proclamation may impact design and construction plans and the necessity for any current and potential additional takings.
16. Based on the foregoing, Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez respectfully request the Court grant this Motion and enter an order continuing the February 16, 2021 status conference²⁴ for at least 45 days.

CERTIFICATE OF CONFERENCE

On February 2, 2021, undersigned counsel for Defendants Noelia Montalvo Muñoz and Sylvia M. Ramirez conferred with the United States, who stated they are unopposed to this motion.

Dated: February 5, 2021

TEXAS CIVIL RIGHTS PROJECT

By: /s/ Karla Marisol Vargas
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²⁴ Dkt. No. 160.

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CERTIFICATE OF SERVICE

I, Karla Marisol Vargas, hereby certify that on this 5th day of February 2021, a copy of the foregoing was served on all parties in accordance with the Federal Rules of Civil Procedure.

/s/ Karla Marisol Vargas
Karla Marisol Vargas
*Attorney-In-Charge for Defendants Noelia Montalvo
Muñoz and Sylvia M. Ramirez*